



Name of Country and Jurisdiction:

Georgia, United States

- 1. What forms of legally recognized relationships are available?
 - 2. What are the requirements to be able to enter into the above relationships?
 - 3. Differences between marriage and civil unions and how the two sets of laws interact.
 - 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
 - 5. When a couple comes to Georgia, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
 - 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Georgia for an authority to grant a divorce/dissolution?
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1. What forms of legally recognized relationships are available?

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LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Georgia	O.C.G.A. tit. 19, chp. 3- ; Ga. Const. arts. I § IV; <i>Obergefell v. Hodges</i> , 576 U.S. ____ (2015)	Yes ¹
Domestic partnership, registered	CITY- OR COUNTY-BASED		Yes (see “Potential changes,” below)
	Cities:		
	<ul style="list-style-type: none"> Atlanta 	Atlanta, Municipal Code §§ 94-131 to 94-138	
	Counties:		
	<ul style="list-style-type: none"> Athens-Clarke County Fulton County (Where domestic partnerships are available to same-sex couples only) 	Athens-Clarke County, Municipal Code §§ 1-23-1 to 1-23-7 Fulton County, Municipal Code §§ 154-468 to 154-481	
Potential changes	<ul style="list-style-type: none"> Decatur approved a resolution to establish a Domestic Partnership Registry in December 2013. A July 17, 2015, article in The Atlanta Journal-Constitution reported that the City of Decatur will end domestic partnership benefits, requiring that city employees now covered get married in a year or lose coverage. Both the governor and attorney general have publicly declared that Georgia will follow the law as stated by the U.S. Supreme Court. Avondale Estates approved a resolution to establish a Domestic Partnership Registry in July 2013. Registration is done at city hall. It is unclear if this will continue. 		

¹ On June 26, 2015, the United States Supreme Court issued a decision in four consolidated cases from the Sixth Circuit Court of Appeals under the name *Obergefell v. Hodges*, 576 U.S. ____ (2015), regarding same-sex marriage. The appeals arose from federal district court decisions in Michigan, Kentucky, Ohio, and Tennessee, which struck down as unconstitutional laws that denied the 14 petitioners the right to marry or refused to give full recognition to marriages lawfully performed in another state. The laws at issue in those states define marriage as a union between one man and one woman. The Sixth Circuit had reversed those decisions (in *DeBoer v. Snyder*, 772 F.3d 388 (2014)), holding that a state had no constitutional obligation to allow same-sex marriages or to recognize those performed in another state. In a 5-4 majority opinion, the U.S. Supreme Court held that the Fourteenth Amendment requires a state to license marriages between same-sex couples and to recognize lawfully performed same-sex marriages from another state. The Court held that the right to marry is protected under both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. Because the Court found that state laws at issue burden the liberty and abridge the equality of same-sex couples, they must be struck down.



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2. What are the requirements to be able to enter into the above relationships?

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(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	No legal residency requirement.
Domestic partnership	Athens-Clarke County: Must be residents or one party is a county employee. Atlanta: Must be residents or one party is an employee of the city. Fulton County: Must be residents or one party is a Fulton County employee.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	For a valid marriage, (a) parties must be able to contract; (b) there must be a contract; and (c) there must be consummation under the law. Parties also are required to obtain a license, before which there must be premarital counseling. Common-law marriages are no longer recognized (after 1/1/97). To be able to contract marriage, a person must: 1) Be of sound mind; 2) Be at least 18 years old (except, if the applicant for marriage is 16 or 17 years of age, parental consent shall be required); 3) Have no living spouse of a previous undissolved marriage; and 4) Not be related to prospective spouse by blood or marriage within the following prohibited degrees: a) Father and daughter or stepdaughter; b) Mother and son or stepson; c) Brother and sister of the whole blood or the half blood; d) Grandparent and grandchild; e) Aunt and nephew; or f) Uncle and niece.

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Domestic partnership	<p>Athens-Clarke County</p> <ul style="list-style-type: none"> • Have shared primary residence for previous six months; • Have a committed, interdependent relationship intended to be lifelong; • Jointly share household obligations and necessities of life; • Neither partner is currently married or legally separated from anyone; • Be at least 18 years old; • Be of sound mind; • Not blood relatives; • Are the sole domestic partner to one another; and • Neither partner is recently, legally separated from another domestic partnership by less than six months. • Must file a Declaration of Domestic Partnership with the ACC Municipal Court. • Complete and notarize an Affidavit of Financial Reliance and Dependency Tax Questionnaire. <p>Fulton County</p> <ul style="list-style-type: none"> • Must be Fulton County residents or Fulton County government employees. • Must file a Declaration of Committed Relationship form. • If government employee, must file an Affidavit of Financial Reliance and a Dependency Tax Questionnaire. <p>City of Atlanta</p> <ul style="list-style-type: none"> • Must have a committed personal relationship that is intended to be lifelong; • Must have lived together for at least the previous six months; • Must not be related by blood; • Must be at least 18 years old; • Must not have another domestic partner; and • Must not be legally married or legally separated. • Domestic Partnership certificates are issued by City Hall by appointment.



3. If both marriage and civil unions exist:

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries, entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to, making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).



A	(a)	<p>Marriage is defined by state statute as a union between a man and a woman. The U.S. Supreme Court's <i>Obergefell</i> decision struck down such laws as unconstitutional.</p> <p>Athens-Clarke County, Fulton County, and the City of Atlanta currently provide for the recognition of domestic partnerships that are registered in those localities.</p> <p>Avondale Estates has approved the establishment of a Domestic Partnership Registry.</p>
	(b)	A party may not enter into a domestic partnership in Athens-Clarke County, Fulton County or the City of Atlanta if s/he is legally married, or if he/she was in a registered domestic partnership that terminated within the previous six months (unless that previous domestic partnership terminated by death).
	(c)	Not applicable. Domestic partnerships are limited to certain geographic locations and employees. The status of "domestic partner" does not have significant impact under state law in regard to taxes, adoption, or immigration.

Q 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	If you are already married to the same or a different person, you cannot marry again, but otherwise anyone can marry if s/he conforms to the requirements listed in the response to Question 2(ii).
	Domestic partnership	If you are already legally married or have been legally separated for less than six months, you may not register for a domestic partnership. See also the response to Question 2.

Q 5. When a couple comes to Georgia, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	After the U.S. Supreme Court's decision in <i>Obergefell</i> , marriages of opposite-sex and same-sex couples legally performed out of state are required to be given full recognition in Georgia.
	Domestic partnership	Must file a declaration of domestic partnership with the municipality in order to be recognized as a domestic partnership.



6. How can each form of relationship be dissolved? What is the residency requirement or other link to Georgia for an authority to grant a divorce/dissolution?



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>A court may annul a marriage or grant a divorce, provided that (1) the party seeking divorce has been a bona fide resident of the state for at least 6 months prior to filing for divorce and (2) a nonresident may file for divorce against any person who has been a resident of this state and the county in which the divorce proceeding is brought for at least 6 months prior to filing for divorce. The grounds for divorce and annulment are:</p> <ul style="list-style-type: none"> a) Intermarriage within prohibited degrees of affinity; b) Mental incapacity at the time of marriage; c) Impotency at the time of marriage; d) Pregnancy by a man (not the husband) at the time of marriage which was unknown to husband; e) Adultery; f) Willful/continued desertion for one year; g) Conviction of an offense involving moral turpitude with imprisonment of at least two years; h) Habitual intoxication; i) Cruel treatment; j) Incurable mental illness; k) Habitual drug addiction; l) Marriage is “irretrievably broken.” <p>An annulment can also be granted 30 days after service of petition without contest or answer.</p>
Domestic partnership	<p>Either party may terminate a domestic partnership, but the municipality must be notified of the termination.</p> <p>Athens-Clarke County</p> <ul style="list-style-type: none"> • A party must file a termination with the court within 30 days if any of the facts set out in the Declaration of Domestic Partnership have changed. <p>Fulton County</p> <ul style="list-style-type: none"> • A party must execute and submit a Notice of Termination within 30 days of such termination. <p>City of Atlanta</p> <ul style="list-style-type: none"> • A party must execute and submit a Notice of Termination within 60 days of such termination.



■ Sources:

- Ga. Code Ann. tit. 19, chp. 3 (2014); Ga. Const. arts. I § IV (2014)
- Ga. Code Ann. tit. 19, chp. 5 (2014)
- *Obergefell v. Hodges*, 576 U.S. ____ (2015)

Secondary Sources:

- City of Atlanta; Lesbian, Gay, Bisexual and Transgender Services, Employee Benefits, and Legal Protections
- Athens-Clarke County, Domestic Partner Benefits
- Fulton County, Certified Committed Relationship
- "Gay marriage: Companies rethink domestic benefits," *The Atlanta Journal-Constitution*, July 17, 2015